

⁴ The Commission has stated that it will initiate a proceeding to evaluate the existing NCE FM Channel 6 TV protection requirements, and seek public input on their continued viability, following the completion of the DTV transition. *See Digital Audio Broadcasting Systems*, Second Report and Order, 22 FCC Rcd 10344 (2007). Now that the DTV transition has been completed, the time is ripe for consideration of the NPR rulemaking proposal.

I. STATEMENT OF INTEREST

1. The Joint Commenters are Commission licensees of separately owned and operated groups of reserved band⁵, noncommercial, educational broadcast stations serving communities from Maine to California, and most states in between. The Joint Commenters have each been forced to limit the service area that certain of their stations could potentially reach by having to operate with less than the maximum allowable technical facilities under the Commission's rules and policies governing the operation of noncommercial FM broadcast stations⁶ and noncommercial FM broadcast translators⁷ in order to comply with the interference protection requirements accorded to Channel 6 television stations under Section 73.525 of the Commission's Rules and Regulations.

II. BACKGROUND

2. In 1985, the Commission implemented Section 73.525 of its Rules and Regulations.⁸ This rule was essentially adopted at the behest of a large television station trade association, The Association of Maximum Service Telecasters, which was concerned about the possibility of the operation of reserved band noncommercial FM stations causing interference to the reception of its member stations operating on NTSC⁹ (analog) Channel 6. The concern arose because the aural spectrum utilized by NTSC Channel 6 television stations is 86-88 MHz, while the reserved noncommercial FM band stations operate on 88.1-91.9 MHz. In 1985, the technology utilized by some NTSC

⁵ 88.1 MHz to 91.9 MHz.

⁶ 47 C.F.R. 73.501, et. seq.

⁷ 47 C.F.R. 1201, et. seq.

⁸ See, *FM Noncommercial Educational Stations and TV Channel 6* Docket 20735, FCC 85-328, 58 RR 2d 629, 50 FR 27954 (1985).

⁹ National Television System Committee standard.

analog television receivers posed a potential problem for NTSC Channel 6 station reception in that noncommercial FM stations operating in the lower end of the reserved band and in near proximity to a Channel 6 TV station could potential be picked up by the television receivers and interfere with the television signal sound and picture quality. Thus, the Commission decided to implement Section 73.525 which greatly limited the ability of reserved band noncommercial FM stations to operation within certain specified distances of NTSC Channel 6 television stations.¹⁰ Essentially, the Commission decided that the solution to the potential interference problem was to limit the ability of reserved band noncommercial FM stations to operate with maximum power and technical facilities in order to protect the sanctity of the reception of the NTSC Channel 6 television stations. This decision unduly limited the ability of the American public to receive news, informational, religious and cultural programming that is offered by the noncommercial FM stations, including those of the Joint Commentors.

3. The Commission implemented these restrictions on the service provided by noncommercial stations without taking any action requiring NTSC receiver manufacturers to improve their products over a set period of time in order to obviate the possibility of such interference to the reception of Channel 6 television stations.¹¹

¹⁰ Section 73.525 was written to protect the F(50,50) 47 dBu Grade B contour of NTSC Channel 6 TV stations and the undesired-to-desired (U/D) ratios in Section 73.525 were all based on the characteristics of NTSC analog receivers.

¹¹ This was in stark contrast to the Commission's action in 1966 in its *Policy To Govern The Change of (Commercial) FM Channels to Avoid Interference To Television Reception*, FCC 66-106, released February 3, 1966. In that proceeding, the Commission had to deal with potential interference to the reception of NTSC television stations operating between channels 7-13 due to second harmonic interference from commercial FM stations. There, the Commission called upon the TV receiver manufacturers to immediately "...take whatever measures are needed to insure that both of these important services could exist without adverse effect upon each other" rather than

Rather, the Commission took the position that NTSC receiver manufacturers would of necessity work to improve their products to eliminate the NCE-FM-Channel 6 TV interference problems. Thus, the Commission characterized the limitations placed on NCE-FM stations in the adoption of Section 73.525 as “...an interim solution...” until “...advancements in the design of television receivers may eventually eliminate the interference problem...”¹² This has indeed come to pass, not only in the improved design of television receivers but as a result of numerous changes in the mode of reception of television stations. As a result, the continued necessity and viability of the restrictions placed on reserved band noncommercial FM broadcast stations under Section 73.525 of the Commission’s Rules and Regulations has come to an end, and the regulation should be terminated.

III. THE JOINT COMMENTERS POSTION

4. The NPR Petition notes correctly that at the time the original Channel 6 television protections in Section 73.525 were implemented more than one half of the United States population was without cable television reception, there was no satellite television reception, and over the air reception was the primary means of television viewership. However, at the present time the vast majority of American homes, greater than 90%, receive programming through cable or satellite service providers. Reception of television Channel 6 stations through such providers is not, and cannot be, affected by the operation of noncommercial FM stations in the reserved band.

penalizing the commercial FM broadcasters with limitations on their maximum technical facilities.

¹² *FM Noncommercial Educational Stations and TV Channel 6 Docket 20735*, 58 RR 2d at 629.

5. Moreover, the advent of sophisticated digital television receivers has essentially ended the possibility of the reception of Channel 6 television stations being subject to noncommercial FM signal interference in the case of that remaining small portion of the American public still actually viewing television over the air. As the NPR Petition demonstrates, based on scientific field testing of digital television receivers it is clear that the improvement of the interference thresholds of digital receivers has essentially eliminated any realistic possibility of noncommercial FM station interference to the reception of Channel 6 television signals over the air.¹³

6. With the advent and almost total penetration of cable and satellite television technology, and the rise of digital television receiver technology, there is no longer any rational basis for the Commission to continue to limit the service that could potentially be provided by stations operating in the reserved, noncommercial FM band. The service such stations provide to the American public is substantial and should not be irrationally limited by a rule, Section 73.525, which has outlived its usefulness. The Commission is required under the Communications Act of 1934, as amended to “...encourage the larger and more effective use of radio in the public interest...”¹⁴ and to “...provide a fair, efficient and equitable distribution of radio service...”¹⁵ The Joint Commenters respectfully submit that the repeal of Section 73.525 of the Commission’s Rules and Regulations by the Commission is mandated under the auspices of the Communications

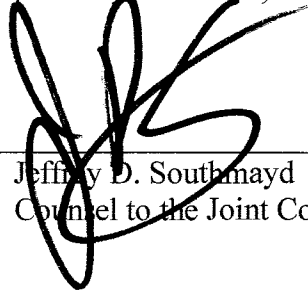
¹³ See, NPR Labs Report, Interference Rejection Thresholds Of Consumer Digital Television Receivers ON Channel 6 With FM Broadcast Signals (Dec. 1 2007) at NPR Petition at Appendices A and B.

¹⁴ 47 U.S.C. Section 303(g).

¹⁵ 47 U.S.C. Section 307(b).

Act for the reasons noted herein, and the Commission should immediately delete Section 73.525 from its Rules and Regulations.

Respectfully submitted,

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Jeffrey D. Southmayd
Counsel to the Joint Commenters

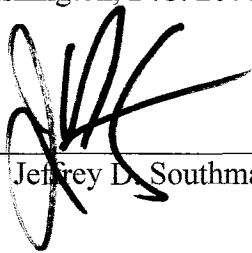
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Date: December 2, 2009

CERTIFICATE OF SERVICE

I, Jeffrey D. Southmayd, do hereby certify that I have caused copies of the foregoing Comments to be served by first class United States mail, postage pre-paid, on this second day of December, 2009, on the following:

Gregory A. Lewis
Associate General Counsel
National Public Radio
635 Massachusetts Avenue, N.W.
Washington, D.C. 20001

A handwritten signature in black ink, appearing to read 'JDS', is written over a horizontal line.

Jeffrey D. Southmayd

The Moody Bible Institute of Chicago is the Commission licensee of the following noncommercial broadcast stations:

Call Letters	Facility ID Number	Location (City/State)	Class of service
KMLW	43702	MOSES LAKE WA	FM
KSPL	5185	KALISPELL MT	FM
WDLM-FM	43691	EAST MOLINE IL	FM
WGNR-FM	2215	ANDERSON IN	FM
WIWC	43695	KOKOMO IN	FM
KJCG	87476	MISSOULA MT	FM
WJSO	43693	PIKEVILLE KY	FM
WMBU	9926	FOREST MS	FM
WRMB	43686	BOYNTON BEACH FL	FM
WVMN	43698	NEW CASTLE PA	FM
WVMS	43701	SANDUSKY OH	FM
KMBI	65985	SPOKANE WA	AM
KMBI-FM	66099	SPOKANE WA	FM
KMBN	82482	LAS CRUCES NM	FM
WDLM	66005	EAST MOLINE IL	AM
WFCM	58737	SMYRNA TN	AM
WFCM-FM	66111	MURFREESBORO TN	FM
WGNR	2214	ANDERSON IN	AM
WHPL	70476	WEST LAFAYETTE IN	FM
WKES	19871	LAKELAND FL	FM
WKZM	11037	SARASOTA FL	FM
WMBI-FM	66063	CHICAGO IL	FM
WMBW	66021	CHATTANOOGA TN	FM
WMKW	65986	CROSSVILLE TN	FM
WVME	88021	MEADVILLE PA	FM
WMBV	43690	DIXON'S MILLS AL	FM
WGNB	18425	ZEELAND MI	FM
WCRF-FM	66101	CLEVELAND OH	FM
WMBI	65972	CHICAGO IL	AM

Call Letters	Facility ID Number	Location (City/State)	Class of service
WMBL	84103	MITCHELL IN	FM
WMFT	83088	TUSCALOOSA AL	FM
WSOR	61506	NAPLES FL	FM
WVML	85908	MILLERSBURG OH	FM
WHGN	11026	CRYSTAL RIVER FL	FM
WRNF	87367	SELMA AL	FM
WFOF	17491	COVINGTON IN	FM
KMWY	122126	JACKSON WY	FM

Houston Christian Broadcasters, Inc. is the Commission licensee of the following noncommercial, educational broadcast stations:

Call Letters	Facility ID Number	Location (City/State)	Class of service
KHCL	84058	ARCADIA LA	FM
KKER	84182	KERRVILLE TX	FM
KHTA	87371	WAKE VILLAGE TX	FM
KHKV	83433	KERRVILLE TX	FM
KHCP	86791	PARIS TX	FM
KHCB-FM	27702	HOUSTON TX	FM
KHCB	27703	LEAGUE CITY TX	AM
KANJ	72440	GIDDINGS TX	FM
KHCJ	83429	JEFFERSON TX	FM
KHCH	30274	HUNTSVILLE TX	AM
KHIB	85291	BASTROP TX	FM
KHVT	89111	BLOOMINGTON TX	FM
KHML	83276	MADISONVILLE TX	FM
KBLC	90113	FREDERICKSBURG TX	FM
KHPO	92737	PORT O'CONNOR TX	FM
KALD	91682	CALDWELL TX	FM
KHPS	92144	CAMP WOOD TX	FM
KCPC	93045	SEALY TX	FM
KHMD	17811	MANSFIELD LA	FM
KHCX	177383	SODA SPRINGS ID	

The Augusta Radio Fellowship Institute, Inc. is the Commission licensee of the following noncommercial broadcast stations:

Call Letters	Facility ID Number	Location (City/State)	Class of service
WLPE	3236	AUGUSTA GA	FM
WLPG	9083	FLORENCE SC	FM
W234AK	85699	WASHINGTON GA	FX
W275AH	88011	MAXTON NC	FX
W236AB	13747	DOUGLAS GA	FX
W250AQ	138205	THOMSON GA	FX
W237BN	138354	LUMBER CITY GA	FX
W298AS	138353	LAKE OCONEE GA	FX
WZZG	121765	TOOMSBORO GA	FM
W232BM	138327	JEFFERSONVILLE GA	FX
WLPT	23953	JESUP GA	FM
WGPH	23950	VIDALIA GA	FM
WPWB	3229	BYRON GA	FM
WJDS	92979	SPARTA GA	FM
W223AF	3234	MILLEN GA	FX
W244AY	3238	MYRTLE BEACH SC	FX
WLGP	27623	HARKERS ISLAND NC	FM
WBLR	17764	BATESBURG SC	AM
WLPF	11646	OCILLA GA	FM
WZIQ	29130	SMITHVILLE GA	FM
WWGF	78706	DONALSONVILLE GA	FM
WKTM	70118	SOPERTON GA	FM
WPMA	77810	BUCKHEAD GA	FM
WQRX	60648	VALLEY HEAD AL	AM
WTHP	83423	GIBSON GA	FM

Life on the Way Communications, Inc. is the Commission licensee of the following noncommercial, educational broadcast stations:

Call Letters	Facility ID Number	Location (City/State)	Class of service
K203CH	82386	JUNEAU AK	FX
K220FR	76219	SIMI VALLEY CA	FX
K216FM	92354	PACOIMA CA	FX
K216EM	88940	ARCADIA CA	FX
K215CV	92479	GUYMON OK	FX
K214DN	93405	SURPRISE AZ	FX
K210CH	90441	OAK VIEW CA	FX
K204DL	92658	PROVENCIAL LA	FX
W217BB	93403	HICKORY POINT IL	FX
K205EP	93751	LA CANADA/FLINTRIDGE CA	FX
KTLW	37813	LANCASTER CA	FM
W208AX	122213	PRAIRIE DU CHIEN WI	FX
K211DA	82178	SELMA CA	FX
WOTW	43708	MONEE IL	FM
KNGW	176566	JUNEAU AK	FM

The Praise Network, Inc. is the Commission licensee of the following noncommercial, educational broadcast stations:

Call Letters	Facility ID Number	Location (City/State)	Class of service
KGCR	24714	GOODLAND KS	FM
KPRD	66273	HAYS KS	FM
KGRD	66274	ORCHARD NE	FM
KPNO	66272	NORFOLK NE	FM
K203DL	122132	CHEYENNE WELLS CO	FX
K205CU	82283	BURWELL NE	FX
K216ED	90814	PHILLIPSBURG KS	FX
K217CT	86504	AINSWORTH NE	FX
K220FV	81221	YANKTON SD	FX
K222AL	86756	PLATTE SD	FX
K237DV	147652	MCCOOK NE	FX
K241AN	138793	PRATT KS	FX
K242BP	146769	WRAY CO	FX
K278AP	138414	LEWIS KS	FX
K297AI	138413	HILL CITY KS	FX
K300AN	138415	CHAMBERLAIN SD	FX
KMMJ	9937	GRAND ISLAND NE	AM
NEW	172508	PRATT, KS	FM
NEW	172509	WRAY, CO	FM
NEW	172515	CHAMBERLAIN, SD	FM

The Sister Sherry Lynn Foundation, Inc. is the Commission licensee of the following noncommercial, educational broadcast stations:

Call Letters	Facility ID Number	Location (City/State)	Class of service
KFXT	60510	SULPHUR OK	FM
KFXH	175816	MARLOW OK	FM
KFXU	87937	CHICKASHA OK	FM
KFXH	175816	MARLOW, OK	FM

Biblical Ministries Worldwide is the Commission licensee of the following noncommercial, educational broadcast stations:

Call Letters	Facility ID Number	Location (City/State)	Class of service
KEYY	5201	PROVO UT	AM
KEYP	174150	PRICE UT	FM
KEYD	176203	DELTA UT	FM
KEYR	176207	RICHFIELD UT	FM
KEYV	176208	VERNAL UT	FM

Native American Christian Voice is the Commission licensee of the following noncommercial, educational broadcast stations:

Call Letters	Facility ID Number	Location (City/State)	Class of service
KTGW	89170	FARMINGTON NM	FM
K229AT	144664	MONTICELLO UT	FX
K232DA	23304	HESPERUS CO	FX
K237CR	23303	HESPERUS CO	FX
K246AN	146590	SILVERTON CO	FX
K250AI	146596	THOREAU NM	FX
K252ET	144680	PAGOSA SPRINGS CO	FX
K260AP	144695	CUBA NM	FX
K277AY	144670	CHINLE AZ	FX

The Good News Network, Inc. is the Commission licensee of the following noncommercial, educational broadcast stations:

Call Letters	Facility ID Number	Location (City/State)	Class of service
WLJN	24603	ELMWOOD TOWNSHIP MI	AM
WLJN-FM	24607	TRAVERSE CITY MI	FM
WLJW	73169	CADILLAC MI	AM

The Ondas de Vida Network, Inc. is the Commission licensee of the following noncommercial, educational broadcast stations:

Call Letters	Facility ID Number	Location (City/State)	Class of service
KODV	122214	BARSTOW CA	FM
K205DK	92058	YUCCA VALLEY CA	FX
K205DZ	91086	DEVORE CA	FX
K228CO	28845	BARSTOW CA	FX
K253AJ	138849	NORTH EDWARDS CA	FX
K264AP	138864	HALLORAN SPRINGS CA	FX
K288DJ	28939	VICTORVILLE CA	FX
K239BB	81345	TAFT CA	FX
K235BU	156220	CHARLESTON PARK NV	FX
KHEC	176094	CRESCENT CITY CA	FM

The Positive Radio Network, Inc. is the Commission licensee of the following noncommercial, educational broadcast stations:

Call Letters	Facility ID Number	Location (City/State)	Class of service
WMSJ	17483	FREEPORT ME	FM
WFWO	172262	MEDINA NY	FM
NEW	172266	CARLISLE KY	FM
NEW	172285	CROSS CITY FL	FM
W260AS	153138	LAWRENCE MA	FX